

AN *8005-942*
ADDRESS
OF THE
CONVENTION,
FOR FRAMING
A NEW
Constitution of Government,
FOR THE STATE OF
Massachusetts-Bay,
TO THEIR
CONSTITUENTS.

B O S T O N.

PRINTED BY WHITE AND ADAMS, NEXT DOOR
TO THE CROMWELL'S HEAD TAVERN, IN SCHOOL-
STREET, M,DCC,LXXX.

1847

1847

1847

1847

1847

1847

47

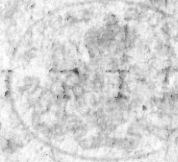
5

20

1847

1847

1847



A N
A D D R E S S &c.

FRIENDS and COUNTRYMEN,

HA V I N G had your Appointment and Instruction, we have undertaken the arduous Task of preparing a civil Constitution for the People of the Massachusetts Bay ; and we now submit it to your candid Consideration. It is your *Interest* to revise it with the greatest Care and Circumspection, and it is your undoubted *Right*, either to propose such Alterations and Amendments as you shall judge proper, or, to give it your own Sanction in its present Form, or, totally to reject it.

In framing a Constitution, to be adapted as far as possible to the Circumstances of Posterity
yet

yet unborn, you will conceive it to be exceedingly difficult, if not impracticable, to succeed in every part of it, to the full Satisfaction of all. Could the *whole Body* of the People have Conven'd for the same Purpose, there might have been equal Reason to conclude, that a perfect Unanimity of Sentiments would have been an Object not to be obtain'd. In a Business so universally interesting, we have endeavor'd to act as became the Representatives of a wise, understanding and free People; and, as we have Reason to believe you would *yourselves* have done, we have open'd our Sentiments to each other with Candor, and made such mutual Concessions as we could consistently, and without marring the only Plan, which in our most mature Judgment we can at present offer to you.

THE Interest of the Society is common to all its Members. The great Enquiry is, where in this Common Interest consists. In determining this Question, an Advantage may arise from a Variety of Sentiments offer'd to public Examination concerning it. But wise Men are not apt to be obstinately tenacious of their own Opinions: They will always pay a due Regard

gard to those of other Men and keep their minds open to Conviction. We conceive, that in the present Instance, by accommodating ourselves to each other, and individually yielding particular and even favorite Opinions of smaller moment, to essential Principles, and Considerations of general Utility, the public Opinion of the Plan now before you may be consolidated. — But without such mutual Condescension in unimportant Matters, we may almost venture to predict, that we shall not soon, if ever, be bless'd with such a Constitution as those are intitled to, who have struggled hard for Freedom and Independence. You will permit us on this Occasion, just to hint to you our own Apprehension, that there may be amongst us, some Persons disaffected to that great Cause for which we are contending, who may be secretly instructed by our common Enemy to divide and distract us ; in hopes of preventing our Union in any Form of Government whatever, and by this Means of depriving us of the most honorable Testimony, as well as the greatest Security of our Freedom and Independence. — If there be such Men, it is our Wisdom to mark them, and guard ourselves against their Designs.

W:

We may not expect to agree in a perfect System of Government : This is not the Lot of Mankind. The great End of Government, is, to promote the Supreme Good of human Society : Every social Affection should therefore be interested in the Forming of a Government and in judging of one when it is Formed. Would it not be prudent for Individuals to cast out of the Scale, smaller Considerations and fall in with an evident Majority, unless in Matters in which their Consciences shall constrain them to determine otherwise ? Such a Sacrifice, made for the sake of Union, would afford a strong Evidence of public Affection ; and Union, strengthened by the social Feeling, would promise a greater Stability to any Constitution, and, in its operation, a greater Degree of Happiness to the Society. It is here to be remembered, that on the Expiration of Fifteen Years a new Convention may be held, in order that such Amendments may be made in the Plan you may now agree to, as Experience, that best Instructor, shall then point out to be expedient or necessary.

A GOVERNMENT without Power to exert itself, is at best, but an useless Piece of Machinery.
It

It is probable, that for the want of Energy, it would speedily lose even the Appearance of Government, and sink into Anarchy. Unless a due Proportion of Weight is given to each of the Powers of Government, there will soon be a Confusion of the whole. An Overbearing of any one of its Parts on the rest, would destroy the Balance and accelerate its Dissolution and Ruin : And, a Power without *any* Restraint is Tyranny. The Powers of Government must then be balanced : To do this accurately requires the highest Skill in political Architecture. Those who are to be invested with the Administration, should have such Powers given to them, as are requisite to render them useful in their respective Places ; and such *Checks* should be added to every Branch of Power as may be sufficient to prevent its becoming formidable and injurious to the Common wealth. If we have been so fortunate as to succeed in this point of the greatest Importance, our Happiness will be compleat, in the Prospect of having laid a good Foundation for many Generations. *You* are the Judges how far we have succeeded ; and whether we have raised our Superstructure, agreeably to our presel'd De-

sign

ign, upon the Principles of a *Free Common
Wealth.*

IN order to assist your Judgments, we have thought it necessary, briefly to explain to you the Grounds and Reasons upon which we have formed our Plan. In the third article of the Declaration of Rights, we have, with as much Precision as we were capable of, provided for the free exercise of *the Rights of Conscience* : We are very sensible that our Constituents hold those Rights infinitely more valuable than all others ; and we flatter ourselves, that while we have considered Morality and the public Worship of GOD, as important to the happiness of Society, we have sufficiently guarded the rights of Conscience from every possible infringement. This Article underwent long debates, and took Time in proportion to its importance ; and we feel ourselves peculiarly happy in being able to inform you, that though the debates were managed by persons of various denominations, it was finally agreed upon with much more Unanimity than usually takes place in disquisitions of this Nature. We wish you to consider the Subject with Candor, and Attention. Surely it would

would be an affront to the People of Massachusetts Bay to labour to convince them, that the Honor and Happiness of a People depend upon Morality ; and that the Public Worship of GOD has a tendency to inculcate the Principles thereof, as well as to preserve a People from forsaking Civilization, and falling into a state of Savage barbarity.

In the form now presented to you, there are no more Departments of Government than are absolutely necessary for the free and full Exercise of the Powers thereof. The House of Representatives is intended as the Representative of the Persons and the Senate, of the property of the Common Wealth. These are to be annually chosen, and to sit in separate Bodies, each having a Negative upon the Acts of other. This Power of a Negative in each must ever be necessary ; for all Bodies of Men, assembled upon the same occasion and united by one common Interest of Rank, Honor, or Estate, are liable, like an individual, to mistake bias and prejudice. These two Houses are vested with the Powers of Legislation, and are to be chosen by the Male Inhabitants who are Twenty or
Years

Years of age, and have a Freehold of the small annual Income of Three Pounds or Sixty Pounds in any Estate. Your Delegates considered that Persons who are Twenty one Years of age, and have no Property, are either those who live upon a part of a Paternal estate, expecting the Fee thereof, who are but just entering into business, or those whose Idleness of Life and profligacy of manners will forever bar them from acquiring and possessing Property. And we will submit it to the former Class, whether they would not think it safer for them to have their right of Voting for a Representative suspended for small space of time, than forever hereafter to have their Privileges liable to the control of Men, who will pay less regard to the Rights of Property because they have nothing to loose.

THE Power of Revising, and stating objections to any Bill or Resolve that shall be passed by the two Houses, we were of opinion ought to be lodged in the hands of some one person ; not only to preserve the Laws from being unsystematical and inaccurate, but that a due balance may be preserved in the three capital powers of Government. The Legislative, the Judicial and
Ex.

Executive Powers naturally exist in every Government: And the History of the rise and fall of the Empires of the World affords us ample proof, that when the same Man or Body of Men enact, interpret and execute the Laws, property becomes too precarious to be valuable, and a People are finally borne down with the force of corruption resulting from the Union of those Powers. The Governor is emphatically the Representative of the whole People, being chosen not by one Town or County, but by the People at large. We have therefore thought it safest to rest this Power in his hands; and as the Safety of the Commonwealth requires, that there should be one Commander in Chief over the Militia, we have given the Governor that Command for the same reason, that we thought him the only proper Person that could be trusted with the power of revising the Bills and Resolves of the General Assembly; but the People may if they please choose their own Officers.

You will observe that we have resolved, that Representation ought to be founded on the Principle of equality; but it cannot be understood thereby that each Town in the Commonwealth shall have
Weight

Weight and importance in a just proportion to its Numbers and property. An exact Representation would be unpracticable even in a System of Government arising from the State of Nature; and much more so in a state already divided into nearly three hundred Corporations. But we have agreed that each Town having One hundred and fifty Rateable Poles shall be entitled to send one Member, and to prevent an advantage arising to the greater Towns by their numbers, have agreed that no Town shall send two unless it hath three hundred and seventy five Rateable Poles, and then the still larger Towns are to send one Member for every two hundred and twenty-five Rateable Polls over and above Three hundred and seventy-five. This method of calculation will give a more exact Representation when applied to all the Towns in the State than any that we could fix upon.

We have however digressed from this Rule in admitting the small Towns now incorporated to send Members. There are but a few of them which will not from their continual increase, be able to send one upon the above plan in a very little Time. And the few who will never probably have that number have been heretofore in the exercise of this privilege, and will now be very unwilling to relinquish it.

To

To prevent the governor from abusing the Power which is necessary to be put into his hands we have provided that he shall have a Council to advise him at all Times and upon all important Occasions, and he with the advice of his Council is to have the Appointment of Civil Officers. This was very readily agreed to by your your Delegates, and will undoubtedly be agreeable to their Constituents; for it those Officers who are to interpret and execute the Laws are to be dependant upon the Election of the people it must forever keep them under the Controul of ambitious, artful and interested men, who can obtain most Votes for them.—If they were to be Appointed by the Two Houses or either of them, the persons appointing them would be too numerous to be accountable for putting weak or wicked Men into Office. Besides the House is designed as the Grand Inquest of the Common Wealth, and are to impeach Officers for male Conduct, the Senate are to try the Merits of such impeachments; it would be therefore unfit that they should have the Creation of those Officers which the one may impeach and the other remove: but we conceive therein the greatest propriety in Vesting the Governor with this Power, he being as we have before observed,

the

the compleat representative of all the People, and at all Times liable to be impeached by the House before the Senate for male Administration. And we would here observe that all the Powers which we have given the Governor are necessary to be lodged in the hands of one Man, as the General of the Army and first Magistrate; and none can be entitled to it but he who has the Annual and United Suffrages of the whole Common Wealth.

You will readily conceive it to be necessary for your own Safety, that your Judges should hold their Offices during good behaviour; for Men who hold their places upon so precarious a Tenure as annual or other frequent Appointments will never so assiduously apply themselves to study as will be necessary to the filling their places with dignity. Judges should at all Times feel themselves independent and free.

Your Delegates have further provided that the Supreme Judicial Department, by fixed and ample Salaries, may be enabled to devote themselves wholly to the Duties of their important Office. And for this reason, as well as to keep this Department separate from the others in Government have excluded them from a Seat in the Legislature; and when our Constituents consider that the final Decision

cision of their Lives and Property must be had in this Court, we conceive they will universally approve the measure. The Judges of Probate and these other officers whose presence is always necessary in their respective Counties are also excluded.

We have attended to the inconveniences suggested to have arisen from having but one Judge of Probate in each County; but the erecting and altering Courts of Justice being a mere matter of Legislation, we have left it with your future Legislature to make such Alterations as the Circumstances of the several Counties may require.

Your Delegates did not conceive themselves to be vested with Power to set up one Denomination of Christians above another; for Religion must at all Times be a matter between GOD and individuals: But we have, nevertheless, found ourselves obliged by a Solemn Test, to provide for the exclusion of those from Offices who will not disclaim those Principles of Spiritual Jurisdiction which Roman Catholics in some Countries have held, and which are subversive of a free Government established by the People. We find it necessary to continue the former Laws, and Modes of proceeding in Courts of Justice until a fu-

ture Legislature shall alter them : For, unless this is done, the title to Estates will become precarious, Law-suits will be multiplied, and universal Confusion must take place. And lest the Commonwealth for want of a due Administration of Civil Justice should be involved in Anarchy, we have proposed to continue the present Magistrates and Officers until new Appointments shall take place.

Thus we have, with plainness and sincerity, given you the Reasons upon which we founded the principal parts of the System laid before you, which appeared to us as most necessary to be explained : And we do most humbly beseech the Great Disposer of all Events, that we and our Posterity may be established in and long enjoy the Blessings of a well-ordered and free Government.

In the Name, and pursuant to a Resolution of the Convention,

JAMES BOWDOIN, *President.*

Attest

SAMUEL BARRETT, *Secretary.*



